## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: PHILIPS RECALLED CPAP,

**BI-LEVEL PAP, AND MECHANICAL** 

VENTILATOR PRODUCTS

This Document Relates to:

LITIGATION

MDI N. 2014

MDL No. 3014

SHORT FORM COMPLAINT FOR

: PERSONAL INJURIES, DAMAGES,

AND DEMAND FOR JURY TRIAL

Master Docket: Misc. No. 21-mc-1230-JFC

Steven Kipnis, Case No. 2:21-cv-07651-

**JAK-KS** 

Plaintiff(s) incorporate(s) by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the "Master Long Form Complaint"). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the

Plaintiff(s) further allege(s) as follows:

## I. **DEFENDANTS**

Master Long Form Complaint.

1. Plaintiff(s) name(s) the following Defendants in this action:

Koninklijke Philips N.V.

Philips North America LLC.

Philips RS North America LLC.

		Philips Holding USA Inc.
		Philips RS North America Holding Corporation.
		Polymer Technologies, Inc.
		Polymer Molded Products LLC.
II.	PLA	INTIFF(S)
	2.	Name of Plaintiff(s):
		Steven Kipnis
	3.	Name of spouse of Plaintiff (if loss of consortium claim is being made):
		N/A
	4.	Name and capacity ( <i>i.e.</i> , executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:
		N/A
	5.	State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased, residence at the time of death):
		Los Angeles, California (Los Angeles County)

## III. **DESIGNATED FORUM**

6.	would have filed in the absence	t Central District of California,
IV. USE	OF A RECALLED DEVICE	
7.	Plaintiff used the following Re	ecalled Device(s):
DreamSt DreamSt SystemO C-Series C-Series OmniLab	ASV S/T and AVAPS Advanced + ne (Q-Series) ation ation Go	□ Dorma 500 □ REMstar SE Auto □ Trilogy 100 □ Trilogy 200 □ Garbin Plus, Aeris, LifeVent □ A-Series BiPAP Hybrid A30 (not marketed in U.S.) □ A-Series BiPAP V30 Auto □ A-Series BiPAP A40 □ A-Series BiPAP A30 □ Other Philips Respironics Device; if other, identify the model:
V. INJU	RIES	
8.	Plaintiff alleges the following	g physical injuries as a result of using a Recalled
Device togeth	ner with the attendant symptoms	and consequences associated therewith:
	COPD (new or worsening)	
	Asthma (new or worsening	
	☐ Pulmonary Fibrosis	

Other Pulmonary Damage/Inflammatory Response

Cancer (specify cancer)

		☐ Kidney Damage					
		Liver Damage					
		Heart Damage					
		Death					
			asal congestion and dry nasal passages, chronic sore throat/dry mouth, hortness of breath, wheezing and stridor, lethargy, constant chest ongestion, headaches, sinus infections				
VI.	CAUS	SES OF ACTION/DĂ	ongestion, headaches, sinus infections  MAGES				
	9.	in the Master Long F	ilips N.V., Plaintiff(s) adopt(s) the following claims asserted form Complaint for Personal Injuries, Damages and Demand e allegations and prayer for relief with regard thereto, as set				
		Count I:	Negligence				
		Count II:	Strict Liability: Design Defect				
		Count III:	Negligent Design				
		Count IV:	Strict Liability: Failure to Warn				
		Count V:	Negligent Failure to Warn				
		Count VI:	Negligent Recall				
		Count VII:	Battery				
		Count VIII:	Strict Liability: Manufacturing Defect				
		Count IX:	Negligent Manufacturing				
		Count X:	Breach of Express Warranty				
		Count XI:	Breach of the Implied Warranty of Merchantability				
		Count XII:	Breach of the Implied Warranty of Usability				
		Count XIII:	Fraud				
		Count XIV:	Negligent Misrepresentation				
		Count XV:	Negligence Per Se				

		Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
		Count XVII:	Unjust Enrichment
		Count XVIII	: Loss of Consortium
		Count XIX:	Survivorship and Wrongful Death
			Medical Monitoring
			Punitive Damages
	<u> </u>	Count XXII:	Other [specify below]
	Frau	udulent Misrep	presentation, Fraud by Omission
10.	Demandas set fo	I in the Maste d for Jury Tria orth therein:	America LLC, Plaintiff(s) adopt(s) the following claims r Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto,
		Count I:	Negligence Strict Liability: Design Defect
		Count II:	Strict Liability: Design Defect
			Negligent Design
		Count IV:	Strict Liability: Failure to Warn
		Count V:	Negligent Failure to Warn
		Count VI:	Negligent Recall
		Count VII:	Battery
		Count VIII:	Strict Liability: Manufacturing Defect
		Count IX:	Negligent Manufacturing
			Breach of Express Warranty
		Count XI:	Breach of the Implied Warranty of Merchantability

		Breach of the Implied Warranty of Usability
	_ Count XIII:	
	Count XIV:	Negligent Misrepresentation
	_ Count XV:	Negligence Per Se
	_ Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
	_ Count XVII:	Unjust Enrichment
	_ Count XVIII	: Loss of Consortium
	_Count XIX:	Survivorship and Wrongful Death
		Medical Monitoring
		Punitive Damages
	_Count XXII:	Other [specify below]
Fra	udulent Misrep	presentation, Fraud by Omission
asserte Demar	d in the Maste	rth America LLC, Plaintiff(s) adopt(s) the following claims r Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto,
asserte Demar	d in the Maste nd for Jury Tria	r Long Form Complaint for Personal Injuries, Damages and
asserte Demar	d in the Maste nd for Jury Tria Forth therein:	r Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto,
asserte Demar	d in the Maste nd for Jury Tria Forth therein: _ Count I:	r Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto,  Negligence
asserte Demar	d in the Maste nd for Jury Tria Forth therein: _ Count I: _ Count II:	r Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect
asserte Demar	d in the Maste and for Jury Tria Forth therein:  Count I:  Count II:  Count III:	r Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design
asserte Demar	d in the Maste ad for Jury Tria Forth therein:  Count I: Count II: Count III: Count IV:	r Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn

	Count VIII:	Strict Liability: Manufacturing Defect
	Count IX:	Negligent Manufacturing
	Count X:	Breach of Express Warranty
	Count XI:	Breach of the Implied Warranty of Merchantability
	Count XII:	Breach of the Implied Warranty of Usability
	Count XIII:	Fraud
	Count XIV:	Negligent Misrepresentation
	Count XV:	Negligence Per Se
	Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
	Count XVII:	Unjust Enrichment
	Count XVIII	: Loss of Consortium
	Count XIX:	Survivorship and Wrongful Death
	Count XX:	Medical Monitoring
$\sqrt{}$	Count XXI:	Punitive Damages
<u> </u>	Count XXII:	Other [specify below]
Fra	udulent Misrep	presentation, Fraud by Omission
in the 1	Master Long F y Trial, and th	g USA Inc., Plaintiff(s) adopt(s) the following claims asserted form Complaint for Personal Injuries, Damages and Demande allegations and prayer for relief with regard thereto, as see
	Count I:	Negligence
	Count II:	Strict Liability: Design Defect
	Count III:	Negligent Design

Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VI:	Negligent Recall
Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	: Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]

13. As to Philips RS North America Holding Corporation, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries,

_	es and Demand Thereto, as set	d for Jury Trial, and the allegations and prayer for relief with forth therein:
	Count I:	Negligence
	Count II:	Strict Liability: Design Defect
	Count III:	Negligent Design
	Count IV:	Strict Liability: Failure to Warn
	Count V:	Negligent Failure to Warn
	Count VI:	Negligent Recall
	Count VII:	Battery
	Count VIII:	Strict Liability: Manufacturing Defect
	Count IX:	Negligent Manufacturing
	Count X:	Breach of Express Warranty
	Count XI:	Breach of the Implied Warranty of Merchantability
	Count XII:	Breach of the Implied Warranty of Usability
	Count XIII:	Fraud
	Count XIV:	Negligent Misrepresentation
	Count XV:	Negligence Per Se
	Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
	Count XVII:	Unjust Enrichment
	Count XVIII	: Loss of Consortium
	Count XIX:	Survivorship and Wrongful Death
	Count XX:	Medical Monitoring
	Count XXI:	Punitive Damages

	hnologies, Inc., Plaintiff(s) adopt(s) the following or Long Form Complaint for Personal Injuries, Damagel, and the allegations and prayer for relief with regard to
Count I:	Negligence
Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XVII:	Unjust Enrichment
Count XVIII	: Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]

Dema	asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto as set forth therein:					
	_ Count I:	Negligence				
	_ Count II:	Strict Liability: Design Defect				
	_ Count III:	Negligent Design				
	_ Count IV:	Strict Liability: Failure to Warn				
	_ Count V:	Negligent Failure to Warn				
	_ Count VIII:	Strict Liability: Manufacturing Defect				
	_ Count IX:	Negligent Manufacturing				
	_ Count XIII:	Fraud				
	_ Count XIV:	Negligent Misrepresentation				
	_ Count XVII:	Unjust Enrichment				
	_ Count XVIII	: Loss of Consortium				
	_ Count XIX:	Survivorship and Wrongful Death				
	_ Count XX:	Medical Monitoring				
	_ Count XXI:	Punitive Damages				
	_ Count XXII:	Other [specify below]				

15. If additional claims against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial are alleged above, the additional facts, if any, supporting these allegations must be pleaded. Plaintiff(s) assert(s) the following additional factual allegations against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial:

N/A						
aintiff(s)' da	ntend(s) that mages allege Defendants,	d herein. S	uch additio	nal parties, v	vho will be h	nereat
N/A						
	ert(s) the foll	_		ns and factua	allegations	s agai
N/A						

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date: December 7, 2022

16.

17.

Kristy M. Arevalo Attorney MCCUNE LAW GROUP, APC